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CONTENTS

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Revenue Department

NOTIFICATION

R(H)1-710|57|RD.

Dated, Trivandrum, 27th March 1957.

In exercise of the powers conferred by Section 6(1) of the Travancore-Cochin General Sales Tax Act, 1125 (Act XI of 1125) the Government of Kerala hereby make the following amendment to the Notification No. S. R. 1.4789|51|B.RD. dated 18-7-1951 viz.,

In the said Notification for the figures and words "4 annas" and "1½ annas" the figures and words "25 Naye Paise" and "10 Naye Paise" shall respectively be substituted.

This amendment shall come into force on the 1st April 1957.

By order of the Governor,
M. K. DEVASSY,
Secretary.

ELECTION DEPARTMENT

ERRATA

No. EL1-66|57|EB.

Dated, Trivandrum, 27th March 1957.

In the declaration containing the names of the candidates elected in the 103 Wynad Constituency published under Notification No. EL1-66|57|EB. dated 21st March, 1957 in the Gazette Extraordinary No. 25 dated 21st March, 1957 for "Sri Kunhikrishnan Nambiar" read "Sri Kunhikrishnan Nair".

In the declaration containing the name of the candidate elected in the 83 Ottapalam Constituency published under Notification No. EL1-66|57|EB. dated 25th March, 1957 in the Gazette Extraordinary No. 27 dated 25th March, 1957 for "Sri Krishnan Nair" read "Sri Kunhunni Nair".

By order of the Governor,

V. KRISHNAMOORTHI,
Secretary (Elections).

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

NOTIFICATION

LD(b)2-6534|56|Law.

Dated, Trivandrum, the 27th March 1957.

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,
T. R. Balakrishna Iyer,
Law Secretary.

THE TRAVANCORE-COCHIN INTERPRETATION AND GENERAL CLAUSES (AMENDMENT) ACT, 1957

(3 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An
ACT

further to amend the Travancore-Cochin Interpretation and General Clauses Act, 1125.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

1. **Short title.**—This Act may be called the Travancore-Cochin Interpretation and General Clauses (Amendment) Act, 1957.

2. **Amendment of section 1.**—In sub-section (1) of section 1 of the Travancore-Cochin Interpretation and General Clauses Act, 1125 (VII of 1125) (hereinafter referred to as the principal Act), the word "Travancore-Cochin" shall be omitted.

3. **Amendment of section 2.**—In section 2 of the principal Act,—

(i) for clause (3), the following clause shall be substituted, namely:—

"(3) 'Act' shall mean a Proclamation or Act of Travancore or Cochin, an Act or Ordinance of Travancore-Cochin, an Act passed by the Legislature of the State of Kerala, an Ordinance promulgated by the Governor under article 213 of the Constitution or, where with respect to the State of Travancore-Cochin or Kerala the power to make laws is vested in the President or other authority under sub-clause (a) of clause (1) of article 357 of the Constitution, any law made in exercise of such power;";

(ii) in clause (10), the words "an Ordinance and a Proclamation" shall be omitted;

(iii) for clause (13), the following clause shall be substituted, namely:—

B.

"(13) 'Gazette' or 'Kerala Government Gazette' shall mean the Gazette published by or under the authority of the Government;";

(iv) for clause (15), the following clause shall be substituted, namely:—

"(15) 'Government', 'the Government' or 'State Government'—

(a) as respects anything done before the commencement of the Constitution, shall mean the Government of Travancore or Cochin or Travancore-Cochin, as the case may be;

(b) as respects anything done after the commencement of the Constitution and before the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean the Government of the State of Travancore-Cochin; and

(c) as respects anything done or to be done after the commencement of the Constitution (Seventh Amendment) Act, 1956, shall mean the Government of the State of Kerala;

and shall, in relation to functions entrusted under article 258A of the Constitution to the Government of India, include the Central Government acting within the scope of the authority given to it under that article;";

(v) clause (16) shall be omitted;

(vi) for clause (30), the following clause shall be substituted, namely:—

"(30) 'registered', used with reference to a document, shall mean registered in India under the law for the time being in force for the registration of documents;".

4. **Amendment of section 3.**—In section 3 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Where any Act is not expressed to come into operation on a particular day, then it shall come into operation on the day on which the Act is first published in the Gazette after it receives the assent of the Rajpramukh, the Governor or the President, as the case may be.

Explanation:—This sub-section shall have effect—

(a) in relation to an Ordinance promulgated by the Governor, as if for the words 'after it receives the assent of the Rajpramukh, the Governor or the President, as the case may be', the words 'after it is promulgated by the Governor' were substituted; and

(b) in relation to a law made by the President or other authority in exercise of the power vested under sub-clause (a) of clause (1) of article 357 of the Constitution, as if for the words 'after it receives the

assent of the Rajpramukh, 'the Governor or the President, as the case may be', the words 'after it is made by the President or other authority' were substituted."

RAJENDRA PRASAD,
President.

Reasons for the enactment

The Travancore-cochin Interpretation and General Clauses Act, 1125 (VII of 1125), applies to the interpretation of enactments of Travancore, Cochin and Travancore-Cochin. The interpretation of Madras enactments in force in the Malabar district is, however, governed by the Madras General Clauses Act, 1867 (Madras Act I of 1867), and the Madras General Clauses Act, 1891 (Madras Act I of 1891). It is considered that there should be some general provisions for the interpretation of the enactments of Kerala and that the Travancore-Cochin Interpretation and General Clauses Act, 1125, may be amended suitably for this purpose. A few other amendments in this Act have also become necessary with the reorganisation of States. The Travancore-Cochin Interpretation and General Clauses (Amendment) Act, 1957, gives effect to these objects.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,
Secy. to the Govt. of India,
Ministry of Home Affairs.

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

NOTIFICATION

LD(b)3-778|57|Law.

Dated, Trivandrum, the 27th March 1957.

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,
T. R. BALAKRISHNA IYER,
Law Secretary.

THE KERALA SALES-TAX LAWS (AMENDMENT) ACT, 1957

(4 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An
ACT

to amend the laws relating to sales-tax in the State of Kerala.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Sales-Tax Laws (Amendment) Act, 1957.

(2) It shall come into force on the 1st day of April, 1957.

2. *Amendment of Travancore-Cochin Act XI of 1125.*—In section 3 of the Travancore-Cochin General Sales Tax Act, 1125 (XI of 1125), for the words "three pies", "six pies", "nine pies", "one anna and three pies", "two annas and three pies" and "four annas" wherever they occur, the words "two *naye paise*", "four *naye paise*", "five *naye paise*", "eight *naye paise*", "fifteen *naye paise*" and "twenty-five *naye paise*" shall respectively be substituted.

3. *Amendment of Madras Act IX of 1939.*—In the Madras General Sales Tax Act, 1939 (IX of 1939), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956),—

(i) in section 3, for the words "three pies", "four and a half pies", "six pies", "one anna" and "one anna three pies" wherever they occur, the words "two *naye paise*", "two *naye paise*", "four *naye paise*", "six *naye paise*" and "eight *naye paise*" shall respectively be substituted;

(ii) in section 5, for the words "two annas" and "six pies" wherever they occur, the words "twelve *naye paise*" and "four *naye paise*" shall respectively be substituted.

4. *Amendment of Madras Act VI of 1939.*—In the Madras Sales of Motor Spirit Taxation Act, 1939 (VI of 1939), as in

A.

force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), for sub-section (1) of section 3, the following sub-section shall be substituted, namely:—

"(1) Subject to the provisions of this Act, there shall be levied on all retail sales of motor spirit effected after the commencement of this Act, a tax—

in the case of petrol,—at the rate of thirty-eight *naye paise* per gallon; and

in the case of any motor spirit other than petrol,—at the rate of ten *naye paise* per gallon;

and such tax shall be payable by the person effecting the sale:

Provided that the State Government may, from time to time, by notification fix any other rate at which the tax shall be payable:

Provided further that no such notification shall come into force until approved by a resolution of the Legislative Assembly."

5. *Amendment of Madras Act IV of 1953.*—In sub-section (3) of section 4 of the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (IV of 1953), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), for the words "three pies", "six pies", "nine pies" and "two annas" wherever they occur, the words "two *naye paise*", "three *naye paise*", "five *naye paise*" and "twelve *naye paise*" shall respectively be substituted.

6. *Amendment of Madras Act XLI of 1954.*—In section 3 of the Madras Medium Cotton Cloth (Sales Tax) Act, 1954 (XLI of 1954), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), for the words "one anna three pies" wherever they occur, the words "eight *naye paise*" shall be substituted.

RAJENDRA PRASAD,
President.

Reasons for the enactment.

The decimal system of coinage introduced by the Indian Coinage (Amendment) Act, 1955 (31 of 1955), will come into force from the 1st April, 1957. It is considered necessary to express in terms of the decimal coinage with effect from that date the rates of tax under the laws in force in the State of Kerala relating to sales-tax. To achieve this object, the Kerala Sales-Tax Laws (Amendment) Act, 1957, amends the Travancore-Cochin General Sales Tax Act, 1125 (XI of 1125), and the other enactments in force in the Malabar area of the State, namely, the Madras General Sales Tax Act, 1939 (XI of 1939), the Madras Sales of Motor Spirit Taxation Act, 1939 (VI of 1939), the Madras Tobacco (Taxation of Sales and Registration) Act, 1953 (IV of 1953), and the Madras Medium Cotton Mill Cloth (Sales Tax) Act, 1954 (XLI of 1954).

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,

Secy. to the Govt. of India,
Ministry of Home Affairs.

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

LD(b)3-2|57|Law.

Dated, Trivandrum, the 27th March 1957.

NOTIFICATION

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,

T. R. BALAKRISHNA IYER,

Law Secretary.

THE CODE OF CRIMINAL PROCEDURE (KERALA AMENDMENT) ACT, 1957

(5 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An

ACT

further to amend the Code of Criminal Procedure, 1898, in its application to the State of Kerala.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

1. **Short title and extent.**—(1) This Act may be called the Code of Criminal Procedure (Kerala Amendment) Act, 1957.

(2) It extends to the whole of the State of Kerala.

2. **Insertion of new section 407.**—After section 406A of the Code of Criminal Procedure, 1898 (5 of 1898) (hereafter referred to as the principal Act), the following section shall be inserted, namely:—

"407. **Appeal from sentence of Magistrate of the second or third class and transfer of appeals to first class Magistrate.**—(1) Any person convicted on a trial held by any Magistrate of the second or third class, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Sub-divisional Magistrate of the second class, may appeal to the District Magistrate.

(2) The District Magistrate may direct that any appeal under this section, or any class of such appeals, shall be heard by any Magistrate of the first class subordinate to him and empowered by the State Government to hear such appeals, and thereupon such appeal or class of appeals may be presented to such Magistrate, or if already presented to

the District Magistrate, may be transferred to such Magistrate. The District Magistrate may withdraw from such Magistrate any appeal or class of appeals so presented or transferred."

3. **Amendment of section 408.**—In section 408 of the principal Act, for the words "any other Magistrate", the words "other Magistrate of the first class", and for the words "any Magistrate", the words "a Magistrate of the first class", shall be substituted.

4. **Substitution of new section for section 409.**—For section 409 of the principal Act, the following section shall be substituted, namely:—

"409. **Appeals to Court of Session how heard.**—An appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge:

Provided that an Additional Sessions Judge shall hear only such appeals as the State Government may, by general or special order, direct or as the Sessions Judge of the division may make over to him."

RAJENDRA PRASAD,
President.

Reasons for the enactment

Under section 407 of the Code of Criminal Procedure, 1898 (5 of 1898), as it stood before it was amended by the Code of Criminal Procedure (Amendment) Act, 1955 (26 of 1955), appeals against convictions by Magistrates of the second and third class lay to the District Magistrate, who may direct that any appeal or class of appeals should be heard by a Magistrate of the first class empowered by the State Government to hear such appeals. As a step towards effecting separation of the judiciary from the executive, Act 26 of 1955 omitted section 407, amended section 408 so as to make the Court of Session the forum of appeal from the decisions of all Magistrates and not merely of Magistrates of the first class, and amended section 409 so as to empower Assistant Sessions Judges to hear appeals from sentences or orders passed by Magistrates of the second or third class.

2. Separation of the judiciary from the executive has already been effected in the State of Kerala and so the reason for which sections 407 to 409 were amended by Act 26 of 1955 does not apply to this State. The amendments will add considerably to the work of Subordinate Judges, who function as Assistant Sessions Judges also. The status of District Magistrates in the State is not in any way inferior to that of Subordinate Judges and they have experience in criminal work. Having regard to the circumstances of this State, it is considered desirable to restore the provisions of the Code in this regard as they stood before Act 26 of 1955 came into force. The present enactment gives effect to this object.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,

Secretary to the Government of India,
Ministry of Home Affairs.

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

LD(b)3-5899|56|Law.

Dated, Trivandrum, the 27th March 1957.

NOTIFICATION

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,
T. R. BALAKRISHNA IYER,
Law Secretary.

THE KERALA ROAD TRANSPORT SERVICES (VALIDATION) ACT, 1957

(6 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An

ACT

to validate the running and operation of certain road transport services by the Government.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

1. **Short title.**—This Act may be called the Kerala Road Transport Services (Validation) Act, 1957.

2. **Validation of the running and operation of certain road transport services by Government.**—Notwithstanding anything contained in the Motor Vehicles Act, 1939 (4 of 1939) (hereinafter referred to as the principal Act), or in any other law for the time being in force, every road transport service run and operated by the Government at the commencement of this Act shall be deemed to be a service run and operated under an approved scheme within the meaning of the principal Act, and in accordance with the provisions thereof; and the validity of the running and operation of any such service shall not be called in question in any court on the ground—

(i) that no scheme under the principal Act has been prepared, approved or published in respect thereof; or

(ii) that no permit under the principal Act has been obtained for any motor vehicle used in connection with such service; or

(iii) that no compensation as provided in section 68G of the principal Act has been paid or is payable to the holder of the permit on account of its cancellation or of any modification of the terms thereof.

RAJENDRA PRASAD,
President.

D

Reasons for the enactment.

The Motor Vehicles (Amendment) Act, 1956 (100 of 1956), has inserted new Chapter IV-A in the Motor Vehicles Act, 1939 (4 of 1939). The new Chapter is intended to facilitate the introduction or expansion of nationalised road transport services and contains provisions relating to State transport undertakings and in particular for the preparation and publication of schemes of road transport service of State transport undertakings and the payment of compensation at specified rates for the cancellation of permits or the modification of the terms thereof.

2. Even before the commencement of Act 100 of 1956 road transport services along certain routes in the State of Kerala had been nationalised by the Government by means of executive orders. In order that the validity of such nationalisation may not be questioned in courts, it is considered that the action already taken should be regularised. The present enactment seeks to achieve this object.

3. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,
Secretary to the Government of India,
Ministry of Home Affairs.

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

LD(b)2-6682|56|Law.

Dated, Trivandrum, the 27th March 1957.

NOTIFICATION

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,

T. R. BALAKRISHNA IYER,
Law Secretary.

THE KERALA BOARD OF REVENUE ACT, 1957

(7 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An

ACT

to constitute a Board of Revenue for the State of Kerala and to define its powers and functions.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Kerala Board of Revenue Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force at once.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(a) "Board" means the Board of Revenue constituted under this Act;

(b) "member" means a member of the Board.

3. **Constitution of the Board of Revenue.**—There shall be constituted for the State of Kerala a Board of Revenue consisting of one or more members as the Government may from time to time think fit to appoint.

4. **Powers of control and supervision of the Board.**—(1) The Board shall be the administrative head of the departments mentioned in the First Schedule and shall exercise general supervision over the departments mentioned in the second Schedule.

(2) The Board shall exercise such other powers as the Government may, by notification in the Gazette, confer on it.

5. **Exercise of jurisdiction by one or more members of the Board.**—The Board may, with the previous sanction of the Government, make rules for the exercise by one or more members of the Board of the powers and functions of the Board and all decisions made pursuant to such exercise shall be deemed to be the decisions of the Board.

6. **Decision on matters before the Board.**—The decision in any case before the full Board or before two or more members thereof shall be in accordance with the opinion of the majority of the members. Where there is no such majority concurring in the same decision in a case before two or more members not constituting the full Board, the entire case shall be referred to the full Board for its decision. Where there is no majority concurring in the same decision in a case before the full Board, the matter on which there is disagreement shall be referred to the Government and such matter shall be decided according to the opinion of the Government.

7. **Review of orders.**—The Board may, either of its own motion or on the application of any party, review any order passed by itself on the ground of mistake, misrepresentation, fraud or error of procedure or any other sufficient reason and pass such orders in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed to the disadvantage of any party unless notice has been given to such party.

8. **Limitation for review.**—Every application under section 7 for a review of an order must be made within a period of three months from the date of the order:

Provided that the Board may admit an application preferred after the period of three months aforesaid if it is satisfied that the applicant had sufficient cause for not preferring the application within that period.

9. **Power to make rules.**—The Board may, from time to time, with the previous sanction of the Government, make rules for regulating generally the practice and procedure of the Board including rules as to the persons practising before the Board, as to the time within which, in the absence of any express provision in the relevant enactment, appeals or applications for revision to the Board may be filed, and as to the cost of and incidental to any proceedings before the Board.

10. **Administrative functions of the Board.**—The Board shall in respect of all matters subject to its appellate or revisional jurisdiction, have superintendence over all authorities in so far as such authorities deal with any such matter and may do any of the following things, that is to say:—

(a) call for returns;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings in respect of such matters; and

(c) prescribe the forms in which books, entries and accounts shall be kept by such authorities:

Provided that such rules and forms shall not be inconsistent with the provisions of any law for the time being in force and shall require the previous approval of the Government.

11. **Power to amend the First and Second Schedules.**—The Government may, by notification in the Gazette, amend, alter or add to the First or Second Schedule.

12. **Power of Government to make rules.**—The Government may make rules to carry out all or any of the purposes of this Act.

13. **Rules to be published.**—All rules made under this Act shall be published in the Gazette.

14. **Repeals.**—(1) The enactments mentioned in the Third Schedule, in so far as they are applicable to any part of the State of Kerala, are hereby repealed.

(2) The Board constituted under the Travancore-Cochin Board of Revenue Ordinance, 1124 (XII of 1124), and deemed to be constituted under the Travancore-Cochin Board of Revenue Act, 1950 (IX of 1950), shall be deemed to be the Board constituted under this Act.

THE FIRST SCHEDULE

[*See* section 4(1)]

Departments over which the Board shall have administrative control.

1. Land revenue including survey, settlement, land records and land acquisition.
2. Excise and prohibition.
3. Agricultural income-tax.
4. Court of Wards.
5. Sales tax.
6. Mines and minerals.
7. Famine relief.
8. Civil supplies.
9. Housing.

THE SECOND SCHEDULE

[*See* section 4(1)]

Departments over which the Board shall have such control as is found necessary for co-ordinating their activities and increasing their efficiency.

1. Local bodies.
2. Co-operation.
3. Advancement of backward communities.
4. Fisheries.
5. Registration.
6. Colonisation.

THE THIRD SCHEDULE

[*See section* 14 (1)]

1. The Travancore-Cochin Board of Revenue Act, 1950.
2. The Madras Board of Revenue Regulation, 1803.
3. The Madras Board of Revenue Act, 1894.
4. The Madras Revenue Commissioner's Act, 1849.

RAJENDRA PRASAD,
President.

Reasons for the enactment

The laws in force relating to the Board of Revenue, are, in the Travancore-Cochin area of the State, the Travancore-Cochin Board of Revenue Act, 1950, and in the remaining part of the State, (1) the Madras Board of Revenue Regulation, 1803, (2) the Madras Board of Revenue Act, 1894, and (3) the Madras Revenue Commissioner's Act, 1849. It is considered necessary to have a uniform law applicable to the whole State instead of these different enactments. The present enactment which follows mostly the provisions of the the Travancore-Cochin Board of Revenue Act, gives effect to this object. The variations made by the new Act are briefly explained below.

2. Section 4 of the Travancore-Cochin Act prescribed the qualification for the appointment of members for the Board and section 5 provided for the payment of salaries and allowances to them. These provisions have been omitted since the posts of members of the Board are now reserved for members of the Indian Administrative Service. Their pay and allowances are regulated by the rules governing that service and since the post is a super time-scale post, only senior members who are bound to have the necessary experience will be appointed.

3. Under section 6 of the Travancore-Cochin Act, the appellate and revisional powers of Government under certain specified enactments were delegated to the Board. Most of these enactments have been replaced by either integrated Acts of Travancore-Cochin or Central enactments. Now there is no appellate or revisional power vested in Government under any of these enactments except under some of the rules framed under them. The powers under the rules can be delegated to the Board by amendment to the rules. Hence no provision corresponding to section 6 has been included.

4. Section 9 of the old Act empowered the Government to call for and examine the record of any case pending before, or disposed of by the Board and to pass such orders with reference thereto as the Government thought fit. It is considered that Government need not have such wide powers of revision. If in any particular case the exercise of powers by the Board should be subject to revision by Government, provision for the same can be made in the statute conferring such power on the Board. Accordingly the provision in section 9 has not been included.

5. There was no provision in the old Act regarding the procedure to be adopted in cases of difference of opinion between the members of the Board. Rule 13 of the Travancore-Cochin Board of Revenue Rules provides that in cases of difference of opinion between the members the matter shall be referred to the Government for decision and that the decision of Government shall be final. It is considered more appropriate to include the provision in this behalf in the enactment itself. Further, now that the Board consists of three members, difference of opinion in a matter to be decided by two of the members can be resolved by referring the same to the full Board. Reference to the Government will be necessary only when there is no majority opinion in a matter pending before the full Board. Section 6 makes the necessary provision in this behalf.

6. The Committee constituted under the proviso to sub-section (2) of section 3 of Kerala State Legislature (Delegation of powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,
Secy. to the Govt. of India,
Ministry of Home Affairs.

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

NOTIFICATION

LD(G)2-5549|56|Law.

Dated, Trivandrum, the 27th March 1957.

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,
T. R. BALAKRISHNA IYER,
Law Secretary.

THE KERALA SMALL CAUSE COURTS ACT, 1957

(8 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An

ACT

to consolidate and amend the law relating to Courts of Small Causes.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Small Cause Courts Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. *Savings.*—Nothing in this Act shall be construed to affect—

(i) the jurisdiction of any court constituted under the Cochin Village Courts Act, 1118 (XII of 1118) or the Madras Village Courts Act, 1888, (I of 1889) as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), or the Travancore Village Panchayat Courts Act, 1090 (I of 1090); or

(ii) any special law other than the Code of Civil Procedure, 1908 (5 of 1908).

3. *Definition.*—In this Act, unless the context otherwise requires, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

F

CHAPTER II

CONSTITUTION OF COURTS OF SMALL CAUSES

4. *Establishment of Courts of Small Causes.*—(1) The Government may, by notification in the Gazette, establish a Court of Small Causes at any place in the State.

(2) The local limits of the jurisdiction of a Court of Small Causes shall be such as the Government may define and the Court may be held at such place or places within those limits as the Government may appoint.

5. *Judge.*—When a Court of Small Causes has been established, there shall be appointed, by notification in the Gazette, a Judge of the Court:

Provided that if the Government so direct, the same person shall be the Judge of more than one such Court.

6. *Appointment of times of sitting in certain circumstances.*—(1) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(2) Notice of the times shall be published in such manner as the High Court from time to time directs.

7. *Additional Judges.*—(1) If the Government so direct, there may be appointed, by notification in the Gazette, Additional Judges of a Court of Small Causes or of two or more such Courts.

(2) An Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(3) The Judge may withdraw from an Additional Judge any business pending before him.

(4) When the Judge is absent, the senior Additional Judge may discharge all or any of the functions of the Judge.

8. *Power to require two Judges to sit as a Bench.*—The Government, after consultation with the High Court, may, by notification in the Gazette, direct that two Judges of Courts of Small Causes or a Judge and an Additional Judge of a Court of Small Causes shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the notification.

9. *Decision in case heard by a Bench.*—(1) If two Judges, or a Judge and an Additional Judge, sitting together under section 8, differ as to a question of law or usage having the force of law, or in construing a document, the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of section 113 and Order XLVI of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), shall apply to the reference,

(2) If they differ on any matter other than a matter specified in sub-section (1), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(3) For the purposes of sub-section (2), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

10. *Registrar.*—(1) There may be appointed to a Court of Small Causes an officer to be called the Registrar of the Court.

(2) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(3) The Government may, by notification in the Gazette, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(4) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

11. *Duties of ministerial officers.*—(1) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(2) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III

JURISDICTION OF COURTS OF SMALL CAUSES

12. *Cognizance of suits by Courts of Small Causes.*—(1) A Court of Small Causes shall not take cognizance of the suits specified in the Schedule as suits excepted from the cognizance of a Court of Small Causes.

(2) Subject to the exceptions specified in the Schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(3) Subject as aforesaid, the Government may, by notification in the Gazette, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the notification.

13. *Exclusive jurisdiction of Courts of Small Causes.*—Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

CHAPTER IV

PRACTICE AND PROCEDURE

14. *Application of the Code of Civil Procedure.*—(1) The procedure prescribed in the Code of Civil Procedure, 1908 (5 of 1908), shall, save in so far as is otherwise provided by that Code or by this Act, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed exparte or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give such security for the performance of the decree or compliance with the judgment as the Court may, on a previous application made by him in this behalf, have directed.

(2) Where a person has become liable as surety under the proviso to sub-section (1), the security may be realised in the manner provided by section 145 of the Code of Civil Procedure, 1908 (5 of 1908).

15. *Trial of suits by Registrar.*—(1) Suits cognizable by the Registrar under section 10, sub-sections (3) and (4), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits and execute the decrees, respectively.

(2) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

16. *Admission, return and rejection of plaints by Registrar.*—(1) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(2) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or

rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

17. *Passing of decrees by Registrar on confession.*—(1) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(2) Where a decree has been passed by the Registrar under sub-section (1), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same ground and in the same manner, as if the decree had been passed by himself.

18. *Execution of decrees by Registrar.*—(1) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(2) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (1), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or of the execution of any process issued in pursuance of that order, reverse or modify the order.

(3) The period of fifteen days mentioned in sub-section (2) shall be computed in accordance with the provisions of the Indian Limitation Act, 1908 (9 of 1908), as though the application of the party were an application for review of judgment.

19. *Adjournment of cases by chief ministerial officer.*—When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

20. *Return of plaints in suits involving questions of title.*—(1) Notwithstanding anything in the foregoing provisions of this Act, when the right of a plaintiff and the relief claimed

by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of Order VII, rule 10, of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), and make such order with respect to costs as it deems just; and the Court, shall, for the purposes of the Indian Limitation Act, 1908 (9 of 1908), be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

21. *Appeal from certain orders of Court of Small Causes.*—Where an order specified in clause (ff) or clause (h) of sub-section (1) of section 104 of the Code of Civil Procedure, 1908 (5 of 1908), is made by a Court of Small Causes, an appeal there-from shall lie to the District Court on any ground on which an appeal from such order would lie under that section.

22. *Revision of decrees and orders of Courts of Small Causes.*—The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

23. *Finality of decrees and orders.*—Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

24. *Subordination of Courts of Small Causes.*—(1) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

(a) keep such registers, books and accounts as the High Court from time to time prescribes, and

(b) comply with such requisitions as may be made by the District Court, the High Court or the Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(2) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Munsiff's Court.

25. *Vacation.*—The High Court may permit a Court of Small Causes to adjourn from time to time for periods not exceeding in the aggregate sixty days in each year.

26. *Seal.*—A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Government.

27. *Abolition of Courts of Small Causes.*—The Government may, by notification in the Gazette, abolish a Court of Small Causes.

28. *Saving of power to appoint Judge of Court of Small Causes to other office.*—(1) Nothing in this Act shall be construed to prevent the appointment of a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(2) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

29. *Application of Act to Courts invested with jurisdiction of Court of Small Causes.*—(1) So much of Chapters III and IV as relates to—

(a) the nature of the suits cognizable by Courts of small causes,

(b) the exclusion of the jurisdiction of other Courts in those suits,

(c) the practice and procedure of Courts of Small Causes,

(d) appeal from certain orders of those Courts and revision of cases decided by them, and

(e) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(2) Nothing in sub-section (1), with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

30. *Application of Act and Code to Court so invested as to two Courts.*—A Court invested with the jurisdiction of a Court of Small Causes with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, 1908 (5 of 1908), be deemed to be different Courts.

31. *Modification of Code as so applied.*— Notwithstanding anything in sections 29 and 30—

(a) when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdic-

tion in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(b) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,

the documents mentioned in Order XXI, rule 6, of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908), shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent.

32. *Continuance of proceedings of abolished Courts.*—(1) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, 1908 (5 of 1908), as extended to Courts of Small Causes or in any other enactment for the time being in force.

33. *Repeals.*—The Provincial Small Cause Courts Act, 1887 (9 of 1887), as in force in the Malabar district referred to in sub-section (2) of section 5 of the States Reorganisation Act, 1956 (37 of 1956), and sub-section (3) of section 22 of the Kerala Civil Courts Act, 1957 (I of 1956), are hereby repealed.

THE SCHEDULE

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES

(*See* section 12)

(1) A suit concerning any act done or purporting to be done by or by order of the Central Government or the Government;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office;

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;

(4) a suit for the possession of immovable property or for the recovery of an interest in such property;

(5) a suit for the partition of immovable property;

(6) a suit by a mortgagee of immovable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immovable property for the redemption of the mortgage;

(7) a suit to enforce a charge whether created by contract or by statute or by decree of Court;

(8) a suit for the assessment, enhancement, abatement or apportionment of the rent of immovable property;

(9) a suit for the recovery of rent, other than house-rent unless the Judge of the Court of Small Causes has been expressly invested by the Government with authority to exercise jurisdiction with respect thereto;

(10) a suit concerning the liability of land to be assessed to land revenue;

(11) a suit to restrain waste;

(12) a suit for the determination or enforcement of any other right to or interest in immovable property;

(13) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office;

(14) a suit to enforce payment of any allowance or fees paid to families or individuals by the Government, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immovable property or in an hereditary office or in a shrine or other religious institution;

(15) a suit to recover from a person to whom compensation has been paid under the Land Acquisition Act for the time being in force, the whole or any part of the compensation;

(16) a suit for the specific performance or rescission of a contract;

(17) a suit for the rectification or cancellation of an instrument;

(18) a suit to obtain an injunction;

(19) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;

(20) a suit for a declaratory decree;

(21) a suit instituted under Order XXI, rule 63, or Order XXI, rule 103, of the First Schedule to the Code of Civil Procedure, 1908 (5 of 1908);

(22) a suit to set aside an attachment by a Court or a revenue authority, or a sale, mortgage, lease or other transfer by a Court or a revenue authority or by a guardian;

(23) a suit for property which the plaintiff has conveyed while insane;

(24) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;

(25) a suit to contest an award;

(26) a suit upon a foreign judgment as defined in the Code of Civil Procedure, 1908 (5 of 1908), or upon a judgment obtained in India;

(27) a suit to compel a refund of assets improperly distributed under section 73 of the Code of Civil Procedure, 1908 (5 of 1908);

(28) a suit under section 360 or section 361 of the Indian Succession Act, 1925 (39 of 1925), to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets;

(29) a suit for a legacy or for the whole or a share of a residue bequeathed by a testator, or for the whole or a share of the property of an intestate;

(30) a suit—

(a) for a dissolution of partnership or for the winding up of the business of a partnership after its dissolution;

(b) for an account of partnership transactions; or

(c) for a balance of partnership account, unless the balance has been struck by the parties or their agents;

(31) a suit for an account of property and for its due administration under decree;

(32) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits on immovable property belonging to the plaintiff which have been wrongfully received by the defendant;

(33) a suit for a general average loss or for salvage;

(34) a suit for compensation in respect of collision between ships;

(35) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;

(36) a suit for compensation—

(a) for loss occasioned by the death of a person caused by actionable wrong;

(b) for wrongful arrest, restraint or confinement;

(c) for malicious prosecution;

(d) for libel;

(e) for slander;

(f) for adultery or seduction;

(g) for breach of contract of betrothal or promise of marriage;

(h) for inducing a person to break a contract made with the plaintiff;

(i) for obstruction of an easement or diversion of a water-course;

(j) for an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code (45 of 1860), would be, an offence punishable under Chapter XVII of the said Code;

(k) for illegal, improper or excessive distress, attachment or search, or for trespass committed in, or damage caused by, the illegal or improper execution of any distress, search or legal process;

(l) for improper arrest under the Code of Civil Procedure, 1908 (5 of 1908), or in respect of the issue of an injunction wrongfully obtained under the said Code, or

(m) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;

(37) a suit by a Muhammadan for exigible (mu'ajjal) or deferred (mu'wajjal) dower;

(38) a suit for the restitution of conjugal rights, for the custody of a minor, or for a divorce;

(39) a suit relating to maintenance;

(40) a suit for arrears of land revenue, village expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;

(41) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land revenue, village expenses and other sums;

(42) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family in respect of a payment made by him on account of the property or family;

(43) a suit by one of several joint mortgagors of immovable property for contribution in respect of money paid by him for the redemption of the mortgaged property;

(44) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue authority on account of an arrear of land revenue or of a demand recoverable as an arrear of land revenue;

(45) a suit to recover property obtained by an act which is, or, save for the provisions of Chapter IV of the Indian Penal Code (45 of 1860), would be, an offence punishable under Chapter XVII of the said Code;

(46) a suit, the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

RAJENDRA PRASAD,
President.

Reasons for the Enactment.

The Provincial Small Cause Courts Act, 1887 (9 of 1887), which provides for the constitution of Courts of Small Causes and their jurisdiction, practice and procedure is in force in the Malabar district referred to in section 5 (2) of the States Reorganisation Act, 1956 (37 of 1956), but not in the other areas in the State of Kerala. The Travancore-Cochin Civil Courts Act, 1951 (XXII of 1951), which was in force in those areas and has been repealed recently by the Kerala Civil Courts Act, 1957 (President's Act I of 1957), did not contain any provision for the establishment of separate Small Cause Courts as such, but merely provided for the exercise of small cause jurisdiction by subordinate civil courts and the procedure to be followed by them in the exercise of such jurisdiction. While repealing the Travancore-Cochin Civil Courts Act, the Kerala Civil Courts Act has, by a transitional provision, temporarily preserved the small cause jurisdiction exercised by judges and munsiffs under the former Act. It is considered that a separate Act relating to small cause courts extending uniformly to all the areas in the State of Kerala should be passed. The present measure which follows the provisions of the Provincial Small Cause Courts Act with a few minor changes, seeks to give effect to this object and also repeals the aforesaid transitional provision in the Kerala Civil Courts Act.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,

Secy. to the Govt. of India,
Ministry of Home Affairs.

Gazette Extraordinary No. 29 dated 27th March 1957.

Law Department

NOTIFICATION

LD (b) 3-669|57|Law.

Dated, Trivandrum, the 27th March 1957.

The following President's Act enacted on the 25th March, 1957 is published for general information.

By order of the Governor,
T. R. BALAKRISHNA IYER,
Law Secretary.

THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD ACT, 1957

(9 of 1957)

Enacted by the President in the Eighth Year of the Republic of India.

An

ACT

to provide for the organisation, development and regulation of khadi and village industries in the State of Kerala and to constitute a Board to carry out the said objects.

In exercise of the powers conferred by section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), the President is pleased to enact as follows:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Act may be called the Kerala Khadi and Village Industries Board Act, 1957.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(i) 'Board' means the Kerala Khadi and Village Industries Board established under section 4;

(ii) 'khadi' means any cloth woven on handlooms in India from cotton, silk or woollen yarn handspun in India or from a mixture of any two or all of such yarns;

(iii) 'prescribed' means prescribed by rules made under this Act;

(iv) 'regulations' means regulations made by the Board under this Act;

(v) 'village industries' means all or any of the industries specified in the Schedule to the Khadi and Village Industries Commission Act, 1956 (61 of 1956), and includes any other industry declared by the Government under section 3 to be a village industry.

3. **Power to declare village industry.**—(1) The Government may, by notification in the Gazette, declare any industry to be a village industry to which this Act applies.

(2) A copy of every notification issued under sub-section (1) shall be laid before the Legislative Assembly as soon as may be, after it is issued.

CHAPTER II

ESTABLISHMENT, CONSTITUTION AND DISSOLUTION OF THE KERALA KHADI AND VILLAGE INDUSTRIES BOARD

4. **Establishment of Board.**—(1) With effect from such date as the Government may, by notification in the Gazette, appoint in this behalf, there shall be established for the purposes of this Act, a Board by the name of the Kerala Khadi and Village Industries Board. The Board shall be a body corporate having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act, and may by the said name sue and be sued.

(2) The Board shall consist of such number of members, being not less than five and not more than seven, as the Government may appoint. One of such members shall be appointed by the Government as the chairman of the Board.

(3) The chairman and the other members shall be paid from the funds of the Board such allowances as the Government may fix.

5. **Resignation of office by member.**—Any member of the Board may at any time resign his office by giving notice in writing to the Government and, on such resignation being notified in the Gazette by the Government, shall be deemed to have vacated his office.

6. **Disqualification for appointment on the Board.**—(1) A person shall be disqualified for being appointed or for continuing as a member of the Board if he—

(a) holds any office or place of profit under the Board;

(b) is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;

(c) is, or at any time has been, adjudicated insolvent or has suspended payment of his debts or has compounded with his creditors;

(d) has directly or indirectly by himself, by his wife or son, or by any partner, any share or interest in any subsisting contract or employment with, by or on behalf of the Board;

(e) is a Director or a Secretary or a Manager or other salaried officer of any incorporated company or any co-operative society, which has any share or interest in any contract or employment with, by or on behalf of the Board.

(2) (a) A person shall not be disqualified under clause (a) of sub-section (1) by reason only of his being a member receiving any allowance as provided in sub-section (3) of section 4.

(b) A person shall not be disqualified under clause (d) or clause (e) of sub-section (1), or be deemed to have any share or interest in any contract or employment within the meaning of those clauses by reason only of his, or of the incorporated company or of a co-operative society, of which he is a Director, Secretary, Manager or other salaried officer, having a share or interest in any newspaper in which any advertisement relating to any affairs of the Board is inserted.

(c) A person shall not also be disqualified under clause (d) or clause (e) of sub-section (1) or be deemed to have any share or interest in any contract or employment with, by or on behalf of the Board by reason only of his being a shareholder of such company or society:

Provided that such person discloses to the Government the nature and extent of the share held by him from time to time.

7. **Removal or suspension of a member.**—(1) The Government may remove from the Board any member who, in their opinion,—

(a) refuses to act; or

(b) has become incapable of acting; or

(c) has so abused his position, as a member as to render his continuance on the Board detrimental to the interest of the public; or

(d) is absent without permission from all the meetings of the Board for four successive months or for the period in which three successive meetings are held, whichever period is longer; or

(e) ceases to reside in the State of Kerala; or

(f) is otherwise unsuitable to continue as a member:

Provided that removal under this sub-section shall not be made unless the member concerned has been given an opportunity to submit his explanation to the Government.

(2) The Government may suspend any member of the Board pending action against him under sub-section (1).

(3) A member who has been removed under sub-section (1) shall not be re-appointed as a member of the Board or appointed in any other capacity under the Board.

(4) The Government may declare void any transaction in connection with which a member has been removed under sub-section (1).

8. **Vacancy to be filled in as early as possible.**—When a member dies or resigns as provided in section 5, or is subject to any of the disqualifications specified in section 6, or is removed under sub-section (1) of section 7, he shall cease to be a member of the Board, and any vacancy so occurring shall be filled in by the Government as early as practicable:

Provided that during any such vacancy the remaining members may act as if no vacancy has occurred.

9. **Validity of proceedings.**—No act or proceeding of the Board shall be deemed to be invalid by reason only of a defect in its constitution or on the ground that the chairman or any member thereof was disqualified for, or had ceased to hold, his office, or by reason of such act or proceeding having been done or taken during the period of any vacancy in the office of the chairman or any member of such Board.

10. **Appointment of members of staff of Board and conditions of their service.**—(1) The Board may appoint such members of the staff as it may consider necessary.

(2) The remuneration, allowances and other conditions of service of the members of the staff of the Board shall be such as may be determined by regulations.

11. **Appointment of committees.**—Subject to any rule made under section 33, the Board may, from time to time, appoint one or more committees for the purpose of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of khadi or any particular village industry. Such committees may be appointed for any particular area.

12. **Meetings of the Board.**—(1) The Board shall meet at such times and places and shall, subject to the provisions of sub-sections (2) and (3), observe such rules of procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations made by the Board:

Provided that the Board shall meet at least once in every three months.

(2) The chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at the meetings of the Board.

(3) All questions at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the case of an equality of votes, the chairman or, in his absence, the person presiding shall have a second or casting vote.

13. **Power to make contracts.**—(1) The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

(2) Every contract shall be made on behalf of the Board by the chairman.

(3) Every contract made by the chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed.

(4) A contract not executed in the manner provided in this section and the rules made thereunder shall not be binding on the Board.

14. **Term of office of members of the Board.**—The term of office of the chairman and the other members of the Board shall be such as may be prescribed.

CHAPTER III

FUNCTIONS AND POWERS OF THE BOARD

15. **Functions of the Board.**—(1) It shall be the duty of the Board to organise, develop and regulate khadi and village industries and perform such functions as the Government may prescribe from time to time.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall also in particular discharge and perform all or any of the following duties and functions, namely:—

(1) to start, encourage, assist and run khadi and village industries;

(2) to help the people by providing them with work in their homes and to give them monetary accommodation;

(3) to organise co-operative societies for khadi and village industries;

(4) to conduct training centres and to train people at those centres or at other centres outside the State of Kerala in khadi and village industries;

(5) to arrange for supply of raw materials, tools and implements and for sale of the finished products;

(6) to arrange for publicity and popularising of goods manufactured in khadi and village industries by opening stores, shops, exhibitions and the like;

(7) to endeavour to educate public opinion and to impress upon the public the advantages of patronising the products of khadi and village industries;

(8) to seek and obtain advice and guidance in these subjects by inviting experts;

(9) to undertake and encourage research work;

(10) to carry on such activities as are incidental and conducive to the objects of this Act; and to discharge such other duties and to perform such other functions as the Government may direct for the purpose of carrying out the objects of this Act.

16. **General powers of the Board.**—The Board shall, for the purposes of carrying out its functions under this Act, have the following powers, namely:—

(i) to acquire and hold such movable and immovable property as it deems necessary and to lease, sell or otherwise transfer any such property:

Provided that in the case of immovable property the aforesaid powers shall be exercised only with the previous sanction of the Government;

(ii) to incur expenditure and undertake works in any area in the State of Kerala for the framing and execution of such schemes as it may consider necessary for the purpose of carrying out the provisions of this Act or as may be entrusted to it by the Government, subject to the provisions of this Act and the rules made thereunder.

CHAPTER IV

PREPARATION AND SUBMISSION OF PROGRAMMES

17. **Preparation and submission of annual Programme.**—(1) In each year on or before such date as may be fixed by the Government, the Board shall prepare and forward to the Government a programme of work.

(2) The programme shall contain—

(a) such particulars of the scheme which the Board proposes to execute, whether in part or whole, during the next year;

(b) particulars of any work or undertaking which the Board proposes to organise during the next year for the purposes of carrying out its functions under this Act; and

(c) such other particulars as may be prescribed.

18. **Sanction of programme.**—The Government may approve and sanction the programme in whole or with such modifications as they deem fit.

19. **Supplementary programme.**—The Board may prepare and forward a supplementary programme for the sanction of the Government in such form and before such date as the Government may prescribe and the provisions of section 18 shall apply to such supplementary programme.

CHAPTER V

FINANCE, ACCOUNTS, AUDIT AND DEBTS

20. **Trasfer of property.**—The Government may transfer to the Board buildings, land or any other property, whether movable or immovable, for use and management by the Board on such conditions and limitations as the Government may deem fit for the purposes of this Act.

21. **Funds of the Board.**—(1) The Board shall have its own fund and all receipts of the Board shall be credited thereto and all payments by the Board shall be met therefrom.

(2) The Board may accept grants, subventions, donations and gifts and receive loans from the Government or a local

authority or any body or association, whether incorporated or not, or an individual for all or any of the purposes of this Act.

(3) All monies belonging to the fund of the Board shall be deposited in such manner as the Government may, by a special or general order, direct.

(4) The accounts of the Board shall be operated upon by such officers jointly or individually as may be authorised by the Board.

22. **Application of fund and property.**—All property, fund and other assets of the Board shall be held and applied by it subject to the provisions and for the purposes of this Act.

23. **Subventions and loans to the Board.**—(1) The Government may, from time to time, make subventions and grants to the Board for the purposes of this Act on such terms and conditions as the Government may determine in each case.

(2) The Board may, from time to time, with the previous sanction of the Government and subject to the provisions of this Act and such conditions as the Government may determine, borrow any sum required for the purposes of this Act.

24. **Budget.**—The Board shall, on or before such date as may be fixed by the Government, prepare and submit to the Government the budget for the next financial year showing estimated receipts and expenditure on capital and revenue accounts according to the programme and the schedule of the stock.

25. **Sanction of budget.**—The Government may sanction the budget submitted to it with such modifications as they deem proper.

26. **Supplementary budget.**—The Board may submit a supplementary budget for the sanction of the Government in such form and before such date as the Government may prescribe and the provisions of section 25 shall apply to such supplementary budget.

27. **Annual report.**—The Board shall prepare and forward to the Government in such manner as may be prescribed an annual report within three months from the end of the financial year giving a complete account of its activities during the previous financial year. Every such report shall be laid before the Legislative Assembly as soon as may be after it is received by the Government.

28. **Further report, statistics and returns.**—The Board shall before such date and at such intervals and in such manner as the Government may from time to time direct, submit to the Government a report on such matters and such statistics and such returns as the Government may direct.

29. **Accounts and audit.**—The accounts of the Board shall be maintained and an annual statement of accounts shall be prepared in such manner as may be prescribed. Such accounts shall be audited by an auditor approved by the Government.

CHAPTER VI

MISCELLANEOUS

30. **Direction by Government.**—(1) In the discharge of its functions, the Board shall be guided by such instructions on questions of policy as may be giveu to it by the Government.

(2) If any dispute arises between the Government and the Board as to whether a question is or is not a question of policy, the decision of the Government shall be final.

31. **Members of Board and members of staff of Board to be public servants.**—Members of the Board and members of the staff of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

32. **Protection of action taken under Act.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act.

33. **Rules.**—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the allowances to be paid to the members of the Board under sub-section (3) of section 4;

(b) the manner and form in which contracts shall be entered into under section 13;

(c) the term of office of the chairman and the other members of the Board and the manner of filling casual vacancies among the members of the Board under section 14;

(d) the functions of the Board under section 15;

(e) the other particulars of the programme under section 17;

(f) the form in which, and the date before which, the supplementary programme shall be submitted under section 19;

(g) the form in which and the date before which the supplementary budget shall be submitted under section 26;

(h) the manner in which the annual report shall be prepared and forwarded to the Government under section 27;

(i) the manner of maintenance of accounts and preparation of annual statement of accounts under section 29;

(j) any other matter which is or may be prescribed under this Act.

34. **Regulations.**—(1) The Board may, with the previous sanction of the Government, make regulations consistent with

this Act and the rules made thereunder and notify them in the Gazette.

(2) In particular and without prejudice to the generality of the foregoing power, the Board may make regulations providing for—

(a) the procedure and disposal of its business and the quorum necessary for the transaction of such business at a meeting;

(b) the remuneration, allowances and other conditions of service of the members of the staff of the Board;

(c) the functions and duties of the members of the staff of the Board;

(d) the functions of committees and the procedure to be followed by such committees in the discharge of their functions.

35. **Saving.**—Nothing in this Act shall be deemed to apply to any industry declared to be a scheduled industry under the Industries (Development and Regulation) Act, 1951 (65 of 1951), or to affect any of the provisions of the said Act.

RAJENDRA PRASAD,
President.

Reasons for the enactment

With a view to promote and develop khadi and village industries, the Central Government have constituted a Board called the All India Khadi and Village Industries Board and vested it with powers, to prepare and organise programmes for the development of khadi and village industries and to deal with other matters incidental thereto. A similar Board known as the Kerala Khadi and Village Industries Board has also been constituted for the State of Kerala by the Government. The functions of this Board are purely advisory. It is considered that the Board, if it is to be effective, should be vested with statutory powers to organise, develop and regulate khadi and village industries in the State. Further, to enable the Board to receive grants from the Central Board direct, and also from the Government, it should be a corporate body with power to hold property, to sue and be sued and to enter into contracts. The present measure gives effect to these purposes.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Kerala State Legislature (Delegation of Powers) Act, 1956 (75 of 1956), has approved the enactment of this measure.

A. V. PAI,
Secy. to the Govt. of India.
Ministry of Home Affairs.

G.